

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Dec 16, 2024

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

EUGENE KLIEWER,

Petitioner,

v.

JASON BENNETT,

Respondent.

No. 2:24-cv-00290-SAB

**ORDER DISMISSING HABEAS
CORPUS PETITION**

On November 6, 2024, Petitioner Eugene Kliewer was ordered to show cause why his *pro se* Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 should not be dismissed due to his failure to exhaust state court remedies and as a proper exercise of abstention under *Younger v. Harris*, 401 U.S. 37 (1971). Petitioner is in custody pursuant to a judgment of a state court and is currently housed at the Stafford Creek Corrections Center.¹ ECF No. 1 at 1. Petitioner is proceeding *in forma pauperis*. Respondent has not been served.

¹ As discussed in this Court's Order to Show Cause, Petitioner is in custody pursuant to a judgment of a State court, and he appears to be challenging the constitutionality of his detention. ECF No. 1 at 1–2, 6. Thus, his habeas petition must be brought under 28 U.S.C. § 2254. *See* ECF No. 11 at 2.

1 In the Order to Show Cause, the Court cautioned Petitioner that his failure to
2 show cause why this action should not be dismissed for failure to exhaust state
3 court remedies and as a proper exercise of abstention under the *Younger* doctrine
4 would be construed as his consent to the dismissal of this action. ECF No. 11 at 6.
5 Petitioner did not respond to the Order to Show Cause within thirty days as
6 directed and has filed nothing further in this action.

7 Accordingly, for the reasons set forth in the Order to Show Cause, ECF No.
8 11 at 2–6, **IT IS ORDERED** that the Petition, ECF No. 1, is **DISMISSED**
9 **without prejudice** for failure to exhaust state court remedies and as a proper
10 exercise of abstention under the *Younger* doctrine.

11 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
12 **enter judgment**, forward copies to Petitioner, and **CLOSE** the file. The Court
13 further certifies that pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this
14 decision could not be taken in good faith, and there is no basis upon which to issue
15 a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

16 **DATED** this 16th day of December 2024.



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A handwritten signature in blue ink, reading "Stanley A. Bastian", is written over a horizontal line.

23 Stanley A. Bastian
24 Chief United States District Judge
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